

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Axel ULLRICH et al.

Examiner: BRISTOL, LYNN ANNE

Serial No.: 10/506,962

Group Art Unit: 1643

Filed: APRIL 19, 2005

Confirmation Number: 6941

Title: **USE OF EGFR TRANSACTIVATION INHIBITORS IN HUMAN CANCER**

RESPONSE TO RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated September 28, 2007, Applicants hereby elect, with traverse, Group I (claims 1-10).

In response to the election of species Requirement, Applicants hereby elect, with traverse: (a) wherein the compound acts on a growth factor receptor ligand precursor.

At page 3 of the open Office Action, the Examiner alleges that "there is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics." However, the PTO does nothing to support the contention that characteristics of the claimed compounds are "mutually exclusive." All the claims in the application involve related subject matter, for example, a method for the treatment for the prevention or treatment of a disorder associated with increased G-protein mediated signal transduction comprising administering a compound which is capable of inhibiting activation of a growth-factor receptor of the EGFR family. It is respectfully submitted that, in view of the totality of the disclosure contained in the instant specification, Applicants' claims relate to a single inventive concept, as stated under PCT Rule 13.1.

Furthermore, the Office Action has not demonstrated that an undue searching burden would be required to examine all groups and certainly not to examine at least more than one of the groups. "If search and examination of an entire application can be

made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct invention." (Emphasis added.) See, M.P.E.P. §803. Accordingly, the Requirement for Restriction should be withdrawn.

Should the Restriction Requirement still be maintained, Applicants will seek reentry of any withdrawn claims once allowable subject matter has been determined.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,



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